

THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NORTH CAROLINA

FILED

JUL 20 2012

JULIE A. RICHARDS, CLERK
U.S. DISTRICT COURT, EDNC
BY 12 DEP CLK

Eddie Ray: Kahn,
Petitioner

Crim. case No. 1:08-cr-271

v.

Case No. 5:12-HC-2149FL

Jonathan C. Miner, Warden
Respondent

NOTICE OF JUDGE LOUISE FLANAGAN'S REFUSAL TO ISSUE PETITIONER'S
COMMON LAW WRIT OF HABEAS CORPUS AD SUBJICIENDUM PURSUANT TO
SECTION 14 OF THE JUDICIARY ACT OF 1789 AND DENIAL OF
PETITIONER'S RIGHT TO DUE PROCESS OF LAW.

Eddie Ray: Kahn, Petitioner, hereby Notices this Court that his Constitutional Right to Due Process of Law has been, and is currently being, violated by U.S. District Court Judge Louise Flanagan. The violation is as follows:

1. On June 22, 2012, a Common Law Writ of Habeas Corpus Ad Subjiciendum was filed on my behalf in the U.S. District Court in Raleigh, North Carolina.

2. The Case was assigned to Judge Louise Flanagan.

3. My wife called the Court on July 2, 2012, and talked with Amy, Judge Flanagan's clerk. My wife asked Amy if there was a defect in the Writ. Amy said she did not know; that only the judge would know. My wife then asked when the Writ would be issued. Amy told her there was no time limit requiring the judge to act promptly.

4. On July 6, 2012, Petitioner mailed a letter to Judge Flanagan, asking why she was not complying with the Habeas Corpus rules and either issuing the Writ or stating for the Record the defect in the Writ paperwork (Ex. A). As of this date, she has not responded.

5. The Habeas Corpus rules state that the Writ will be issued "forthwith". Black's Law Dictionary, 8th Ed. defines forthwith as "Immediately, without delay". I believe that 25 days far exceeds "forthwith".

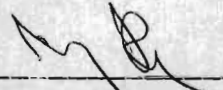
The common law Habeas Corpus rules state that the Writ will be issued forthwith unless there is a defect in the pleading. As of this date, it has been 25 days since the Writ was filed in the Court. The judge, Louise Flanagan, has violated her oath to uphold the Constitution of the United States of America (CUSA) and the Habeas Corpus rules by not issuing the Writ in a timely manner. Neither has she stated that there is a defect in the Writ. Therefore, she has violated Oath of Office by ignoring her ministerial duty, pursuant to Section 14 of the Judiciary Act of 1789, to "Issue the Writ without delay and is denying my Right, which is enumerated in the CUSA, to due process of law.

The Petitioner has a Right to have the Writ issued immediately (unless there is a defect in the Writ) as the Petitioner is illegally imprisoned and is suffering irreparable harm every day by the loss of his liberty, his good name and the ability to provide for his family. Judge Flanagan has an obligation to either state on the Record that there is a defect in the Writ or issue it so the Respondent can attempt to prove that he has lawful custody of Petitioner's body.

The real question is...why hasn't the Judge issued the Writ? The Respondent has had his copy of the Writ since June 20, 2012. He has had more than adequate time to gather any documents together that would prove he has lawful authority to imprison the Petitioner...if such documents exist. If the documents do not exist, as Petitioner contends, then, obviously, it would be a great help to the Respondent for Judge Flanagan to hold the Writ as long as possible. Based on Judge Flanagan's refusal to issue the Writ or deny it alleging a defect, Peititioner belives that is the case.

Date: July 17, 2012

Respectfully submitted,



Eddie Ray Kahn

18325-008

P.O. Box 630

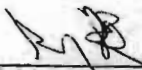
Winton, North Carolina 27986

(No phone, fax or email)

Cc: James A. Wynn, Jr. Supervisory Judge

PROOF OF SERVICE

I, Eddie Ray: Kahn, certify that I have placed a copy of the enclosed NOTICE OF JUDGE LOUISE FLANAGAN'S REFUSAL TO ISSUE PETITIONER'S COMMON LAW WRIT OF HABEAS CORPUS AD SUBJICIENDUM PURSUANT TO SECTION 14 OF THE JUDICIARY ACT OF 1789 AND DENIAL OF PETITIONER'S RIGHT TO DUE PROCESS OF LAW in the Inmate Mail Box at Rivers Correctional Institution in Winton, North Carolina on July 18, 2012. It was addressed to Jonathan C. Miner, the Warden at the aforesaid institution.



Eddie Ray: Kahn
18325-008
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